

RULE 303

Hearing Board Fees

(a) Filing Fees

Every applicant or petitioner in a proceeding before the Hearing Board shall pay to the Clerk or Deputy Clerk of the Hearing Board at the time of filing, a filing fee for each petition, in the amount shown below:

- (1) For each petition for a variance, or for each petition or hearing to modify a variance or to extend or modify a compliance schedule (or any combination thereof in the same petition) the sum of \$250.00.
- (2) For each petition to appeal the denial or conditional approval of a permit, the sum of \$250.00.

(b) Filing Fee Refunds

- (1) In the event the Hearing Board reverses the decision of the Air Pollution Control Officer in an appeal from a denial or a conditional approval of a permit, the filing fee specified in subsection (a) (2) shall be refunded to the petitioner.
- (2) In the event that the petition is withdrawn or the hearing is not held for any other reason, petitioner shall be entitled to a refund of 50 percent of the filing fees.

(c) Excess Emission Fee

- (2) Each applicant or petitioner for a variance from these Rules and Regulations (except from Rule 401 or Health and Safety Code Section 41701) shall pay to the District as ordered by the Hearing Board, in addition to the filing fees required in subsection (a), an emissions fee based on the total amount of emissions discharged, other than these described in subsection (d) below, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table 1, or the amount set forth in subsection (e), whichever is greater. Where the total excess emissions cannot be readily calculated, the amount set forth in paragraph (e) shall be paid. In the event that more than one rule limiting the discharge of the same contaminant are violated, the excess emission fee shall consist of the fee for violation which will result in the payment of the greater sum.

(d) Excess Visible Emission Fee

- (1) Each applicant or petitioner for a variance from Rule 401 or Health and Safety Code Section 41701 shall pay to the District as ordered by the Hearing Board in addition to the filing fees required in (a) above and the excess emission fees required in subsection (c) above (if applicable), an emission fee based on the difference between the percent opacity allowed by Rule 401 and the percent opacity of the emissions allowed by the variance from the source or sources operating under variance in accordance with the schedule set forth in Table II or the amount set forth in subsection (e), whichever is greater.

In the event that an applicant or petitioner is exempt from the provisions of Rule 401, the applicant or petitioner shall pay a fee calculated as described hereinabove, but such fee shall be calculated based upon the difference between the opacity allowed by variance and the opacity allowed under the provisions of Health and Safety Code, Section 41701, in accordance with the schedule set forth in Table II, or the amount set forth in subsection (e), whichever is greater.

(e) Minimum Excess Emission Fees

When a variance is granted from a rule or rules which limit the discharge of air contaminants, such that an excess emission fee is due, a fee of at least \$15.00 per day shall be imposed and remitted.

(f) Applicability

- (1) The provisions of subsection (c), subsection (d) and subsection (e) shall not apply in the case of an emergency variance provided for in Health and Safety Code Section 42359.
- (2) The provisions of subsection (c) shall apply only to those rules that specify quantitative emission limits.

(g) Fee Determination

- (1) The emission fees shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions as set forth in sub-section (c) and (d) above. The calculations and proposed fees shall be set forth in the petition.

- (2) The Hearing Board may adjust the emission fee required by subsection (c) and (d) of this rule based on evidence regarding emissions presented at the time of the hearing, and may waive emissions fees where in the Board's judgement the fees are not significant, and without corresponding benefit to the public.

(h) Adjustment of Fees

- (1) If after the term of a variance for which emission fees have been paid, petitioner can establish, to the satisfaction of the Air Pollution Control Officer, that emissions were actually less than those upon which the fee was based, a prorated refund shall be made.

(i) Emission Fee Refunds

- (1) In the event that the petition is withdrawn or the hearing is not held for any other reason, or the variance is denied, petitioner shall be entitled to a full refund of the emission fees.

(j) Fee Payment

- (1) Failure to pay the emission fees required by subsection (c), (d) or (e) of this rule within fifteen (15) days of the effective date of the variance as specified in Rule 516 shall invalidate the variance. For a long term variance, the Board may authorize incremental payments.

(k) Discretionary Powers

- (1) Any person may allege that payment of any of the foregoing fees will cause an unreasonable hardship and may be excused from payment of such fees or a portion of such fees by order of the Hearing Board if the Board in its discretion determines after hearing evidence thereon that payment of such fees would cause financial or other unreasonable hardship to the petitioner with no corresponding benefit to the public.

(l) Notice Fees

- (1) Upon demand and in addition to the payment of the foregoing fees, every petitioner shall deposit or secure the cost of publication of notice of hearing where in the judgement of the Air Pollution Control Officer extensive notifications are appropriator where publication costs exceed \$50.00

(m) Transcript Fees

- (1) Any person requesting a transcript of the hearing shall pay the cost of such transcript.
- (n) Government Agencies
- (1) This rule shall not apply to petitions filed by the Air Pollution Control Officer.
 - (2) Federal, State or local government agencies or public districts shall pay the fees to the extent allowed under Chapter 2, Division 7, Title 1, of the Government Code (commencing with Section 6103 and Chapter 4, Part 4, Division 26 of the Health and Safety Code (commencing with Section 42300)).

TABLE I
SCHEDULE OF EXCESS EMISSIONS FEES

<u>AIR CONTAMINANT</u>	<u>DOLLARS PER TON</u>
Total organic gases, except those containing sulfur.	\$100.00
Carbon monoxide	\$1.50
Oxides for nitrogen (expressed as nitrogen dioxide).	\$100.00
Gaseous sulfur compounds (expressed as sulfur dioxide).	\$100.00
Particulate matter	\$100.00

TABLE II
SCHEDULE OF EXCESS VISIBLE EMISSION FEE

For each source with opacity emissions in excess of 20 percent, the allowable limit set forth in Rule 401 of the Rules and Regulations of the District, or Section 41701 of the State Health and Safety Code, the fee is calculated as follows:

RULE 401

Fee = (Opacity* equivalent - 20) X number of days allowed by variance X \$3.00.

SECTION 41701

Fee = (Opacity* equivalent - 40) X number of days allowed by variance X \$3.00.

*Where "Opacity" equals maximum opacity of emissions, in percent of equivalent opacity in terms of Ringelman numbers, allowed by the variance.

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